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By ECF

June 25, 2015

The Honorable James L. Cott
United States District Court
Southern District of New York
500 Pearl Street, Rm.
New York, NY 10007

Re: *Ramirez et al. v. Pio Pio NYC, et al. 14-CV-9445 (ER)(JLC)*

Dear Judge Cott:

We represent Defendants in the above-captioned action and write to renew our prior request for a pre-motion conference pursuant to Local Civ. R. 37.2 [Dkt. No. 52] to resolve a discovery dispute – Plaintiffs’ continued refusal to agree to deposition dates. Defendants’ certify that they have met and conferred in good faith with Plaintiffs but have been unable to resolve these disputes, including an in person meeting May 15, 2015, correspondence, and several calls and e-mail exchanges.

On May 31, 2015, Defendants filed their initial request for a Rule 37.2 conference given Plaintiffs’ refusal to agree to any deposition dates. [Dkt. No. 52.]

On June 4, 2015, Defendants withdrew this request, based on Plaintiffs’ specific representations that they “*will schedule each Plaintiff’s deposition in July.*” [Dkt. No. 57, Ex. A hereto.]

On June 16, 2015, Defendants agreed to the following dates for Plaintiffs depositions, all of which had been proposed by Plaintiffs’ counsel: July 7, July 10, July 27 and July 29. Defendants then asked Plaintiffs to confirm, but they refused to do so.

Accordingly, on June 17, 2015, when Plaintiffs still had not agreed to a single deposition in July, Defendants’ counsel raised this issue during the conference call with the Court. Plaintiffs’ counsel responded by representing to the Court that they would reach agreement on scheduling the depositions in July.

However, on June 19, Plaintiffs' counsel – instead of agreeing to a single July deposition – sought to further delay the Plaintiffs' depositions without any justification. They proposed four dates in August: August 4, 7, 11, and 14.

Clearly, Plaintiffs are seeking to continue delaying their depositions in order to gain a tactical advantage; keep any damaging testimony from the Court while Plaintiffs' Motion for Conditional Certification is *sub judice*; and generally hinder Defendants' discovery efforts. This is despite the fact that Plaintiffs have already taken two depositions of Defendants and will take two more by the end of June; have received almost 2,000 pages of hard-copy discovery; and have received many thousands of pages of electronic discovery.

Plaintiffs apparently take the view that the worst that can happen is that the Court will order them to do what they already promised to the Court and the Defendants that they will do – agree to deposition dates in July. Moreover, Defendants' counsel is scheduled to be out of the office from August 10 through 26 for vacation. As of the writing of this letter, Defendants re-arranged their schedule to accommodate two of the dates in early August that Plaintiffs proposed, but Plaintiffs still refuse to agree to a single deposition date.

Accordingly, Defendants renew their request for a pre-motion conference to resolve this dispute and require the four depositions at issue to take place on or before August 7, 2015.

We thank the Court for its attention to this matter.

Respectfully submitted,



Matthew L. Levine

Cc (by ECF): C.K. Lee, Esq.

EXHIBIT A

LAW OFFICES OF MATTHEW L. LEVINE, PLLC

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By ECF

June 4, 2015

The Honorable James L. Cott
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: *Ramirez et al. v. Pio Pio NYC, et al.* 14-CV-9445 (ER)(JLC)

Dear Judge Cott:

I represent Defendants in the above-captioned action. This responds to yesterday's letter from Plaintiffs concerning Defendants' application to Judge Ramos for a pre-motion conference to resolve a discovery dispute. [Dkt. No. 52].

Plaintiffs are correct that the parties met and conferred, once again, after Defendants filed their request for a pre-motion conference. This time the matter appears to be successfully resolved, based on Plaintiffs' representations to Defendants made on June 1 and 2 that (a) they will schedule each Plaintiff's deposition in July; (b) they will not move for Rule 23 certification until after Defendants have had a chance to depose each of the Plaintiffs; and (c) with respect to Defendants' Document Request No. 12, no Plaintiff has worked for any other employer during the time such Plaintiff worked at a Defendant Restaurant, and therefore no Plaintiff is in possession, custody or control of any documents concerning wages or income earned from persons or entities other than a Defendant.

Based on these representations, Defendants withdraw their application [Dkt. No. 52] for a pre-motion conference to resolve this disputes, without prejudice to renewal in the event that these representations turn out to be inaccurate.

Respectfully submitted,

/S/

Matthew L. Levine

Cc (by ECF): C.K. Lee, Esq.
Counsel for Plaintiffs